

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARK WEAVER,

Plaintiff,

- against -

NIPPON CARGO AIRLINES, CO., LTD., PARC  
U.S., INC., and PARC AVIATION LIMITED,

Defendants.  
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**ORDER**  
09-CV-3377 (RRM)(CLP)

**MAUSKOPF, United States District Judge:**

By motion filed April 20, 2010, all defendants filed a motion to transfer or dismiss based on *forum non conveniens*, and defendant Nippon Cargo Airlines (“NCA”) filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). [Doc. No. 20.] By Order entered June 7, 2010, this Court referred those motions to the assigned Magistrate Judge, the Honorable Cheryl L. Pollak, for a Report and Recommendation. On July 25, 2011, Judge Pollak issued a Report and Recommendation (the “R&R”) [Doc. No. 37] recommending that defendants’ motion for *forum non conveniens* be denied, and that defendant NCA’s motion to dismiss be granted in part and denied in part. Judge Pollak reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due August 11, 2011. Neither plaintiff nor any of the defendants have filed any objection with respect to this case.<sup>1</sup>

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, defendants’ motion on the basis of *forum non conveniens* is DENIED, and NCA’s motion to dismiss is GRANTED with respect to the following claims: (1) all retaliation claims under Title VII, the ADEA, Section 1981,

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<sup>1</sup> The R&R also addressed similar issues in two related matters, and objections have been filed in those cases and will be addressed in due course by separate order.

the NYSHRL and the NYCHRL; and (2) plaintiff Weaver's claims based on the FMLA and retaliation under the FMLA. Should Plaintiff wish to file an Amended Complaint, he must move to so do no later than September 2, 2011 by submitting a proposed Amended Complaint together with a properly supported motion demonstrating that leave to amend is warranted.

SO ORDERED.

Dated: Brooklyn, New York  
August 12, 2011

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
United States District Judge